IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1109 of 2007

Isakkiyammal .. Petitioner

Vs

1. The State of Tamilnadu
   Rep. by its Secretary,
   Prohibition and Excise Department,
   Fort St.George, Chennai.

2. The District Collector and
   District Magistrate, Kancheepuram
   District, Kancheepuram. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.V.Perarasu

For Respondents : Mr.N.R.Elango, APP.

O R D E R

(Made by P.D.DINAKARAN,J.)

The petitioner, sister of the detenu by name Navamani, who was incarcerated at Central Prison, Puzhal, Chennai, by the order of detention dated 28.5.2007 made in Memo No.37/BDFGISSV/2007, by the second respondent under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Goonda, filed the above petition seeking to set aside the order of detention and to direct the respondents to produce the detenu, her son, before this Court and set him at liberty.

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2. On the basis of the complaint lodged by one Murugan that on 2.5.2007 at about 4.00 p.m., the detenu along with five others waylaided him and demanded money at the point of knife and that when he refused, they tried to assault him with the knife and also threatened the public, who gathered there on hearing the cry of the complainant creating panic situation in the area, a case was registered in Crime No.122/2007 on the file of Otteri Police Station for the offence punishable under Section 397 IPC. The detenu was arrested and produced before the learned Judicial Magistrate No.II, Chengalpattu, for judicial remand.

3. The second respondent, taking note of the above case as a ground case and finding that there are six adverse cases of theft and robbery, viz. in Crime No.17 of 2007 on the file of same police station, Cr.Nos.92/2007, 97/2007, 176/2007 and 182/2007 on the file of Maraimalai Nagar Police Station and Cr.No.182/2007 on the file of Guduvancheri Police Station for offences punishable under Sections 397, 379 and 379 r/w 392, 394 IPC., having satisfied that there is a compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a 'Goonda'.

4. The learned counsel for the petitioner challenges the impugned order of detention mainly on the ground that the remand extension order dated 17.5.2007, which is a relied upon document, was not furnished to the detenu in the language known to the detenu, when specifically asked for, which has prejudiced the detenu to make his effective representation objecting to the order of detention and hence, the order of detention vitiates on this ground. In support of his contention, the learned counsel relied upon the decision of the Apex Court in POWNAMMAL v. STATE OF TAMIL NADU AND ANOTHER [A.I.R. 1999 SC 618].

5. We have heard the learned Additional Public Prosecutor on the above point and also perused the materials placed before us.

6. In POWNAMMAL v. STATE OF TAMIL NADU, cited supra, where the Tamil version of the remand order, which is a relied upon document was not supplied to the detenu even though it was demanded by the detenu, the Apex Court held thus -

> " 15. Adverting to the facts of this case, the appellant has made a representation for supply of Tamil version of the copy of order of remand and specifically stated that the detenue could not understand English language. Admittedly, Tamil version of order of remand

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was not furnished to her. A perusal of the grounds shows that the order of remand was relied upon by the second respondent to reach subjective satisfaction, so the detenue need not show that any prejudice was caused to her due to non-supply of the Tamil version of order of remand. Therefore, the High Court is not correct in holding that non-furnishing of the copy of the order of remand would not in any way prejudice the detenue."

7. In the instant case, from the paper book placed before us, we find at page 197 the remand extension order dated 17.5.2007 extending the remand of the detenu and others from 17.5.2007 till 31.5.2007. But, the said document, which is admittedly a relied upon document, has not been furnished to the detenu in the language known to him, when specifically asked for, which has caused prejudice to the detenu to submit his effective representation objecting to the order of detention and hence, we are inclined to allow this petition on this ground.

In the result, the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

sra

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary,
   Government of Tamil Nadu,
   Prohibition & Excise Department
   Fort St. George, Chennai 9.

2. The District Collector and
   District Magistrate, Kancheepuram
   District, Kancheepuram.

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3. The Superintendent,
   Central Prison, Puzhal, Chennai.

4. The Joint Secretary to the Government,
   Public (Law and Order) Department,
   Fort St George, Chennai 9.

5. The Public Prosecutor
   High Court, Madras.

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SR/19.11.2007

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